

REQUEST FOR PROPOSALS RFP ENE 2010-001

Commonwealth of Massachusetts Department of Energy Resources



Scope of Services Pertaining to Biomass Sustainability and Carbon Policy Study

I. BACKGROUND AND OBJECTIVES

Biomass feedstock has the potential to partially substitute for fossil fuels in the production of energy. Markets for logging residues, small diameter trees, and other low-value forest products can add value to working forests, help provide financial alternatives to land clearing and development, and create incentives for investing in sustainable forest management. Forest thinning and removal of small-diameter, low value trees are integral parts of forest management for a number of values and objectives — biodiversity conservation, ecological restoration, wildfire prevention, and timber stand improvement. However, there is also the potential for increased demand to drive unsustainable levels of harvesting, with negative consequences for biodiversity, soil, and water conservation.

Proceeding with biomass as a fuel source requires a better understanding of the lifecycle greenhouse gas emissions of the biomass feedstock, as well as of the impacts on forest ecosystem sustainability and other forest resources. Toward this end, the Massachusetts Department of Energy Resources (DOER) seeks to assist state policy makers, the concerned public, and project developers to more fully understand the complex issues associated with biomass energy. DOER issues this Request for Proposals (RFP) to commission a significant, objective “white paper” to provide a summary of the research and peer reviewed science-based information on the following topics:

- Sustainable Forest Management and Ecological Implications of Biomass Harvesting
- Carbon Sequestration of Forests with and without Forest Management
- Net effect of Biomass Energy on Atmospheric Carbon Balance
- U.S. and International Policies with Regard to Biomass and Carbon Neutrality

To perform this work, DOER seeks consulting services to develop a white paper on the above topics, and provide public outreach and project administration, as described in the Scope of Services (see Section VII). A winning bid for this RFP does not guarantee that the successful bidder will be awarded a contract to provide services. Qualified firms and individuals are invited to submit responses to this announcement.

II. SINGLE OR MULTIPLE DEPARTMENT USE

This is single agency procurement for DOER only.

III. DURATION

The duration of this contract will be 26 weeks and is expected to begin in October 2009.

IV. ACQUISITION METHOD

The acquisition method for this RFP is "Fee for Service." The "fee" shall be paid to the vendor from a grant awarded to DOER. RFP responses must include a detailed budget and timeline for completing proposed tasks.

V. ANTICIPATED FUNDING

DOER anticipates that this RFP will not exceed \$100,000. but proposals in excess of this amount will be considered.

VI. SINGLE OR MULTIPLE CONTRACTORS

DOER plans to award one contract. This award will depend upon the Department's needs, the market, the availability of bidders and other factors. All bids must include the total cost of services to be provided.

DOER encourages bidders to build teams with specific areas of expertise and work collaboratively with qualified sub-contractors to complete the scope of work.

VII. FORM OF RESPONSE

All responses must meet the requirements outlined in this RFP. One (1) original and a total of five (5) copies should be submitted to:

Rob Rizzo
Bioenergy Program Manager
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
Robert.Rizzo@state.ma.us

VIII: SCHEDULE AND SUBMISSION PROCESS

All inquiries from potential bidders must be submitted electronically to Rob Rizzo at the contact information listed above. Responses to questions will be posted on Comm-Pass.

All responses to this RFP are due by 3:00 p.m. on Tuesday, September 8, 2009. Any response offered for filing after 3:00 p.m. on Tuesday September 8, 2009 shall be refused. Facsimile filings of any response shall also be refused. No bidders' conference is scheduled for this RFP.

Schedule

Issue RFP to Comm-PASS – August 5, 2009

Question and answer period – August 5, 2009 to August 28, 2009

RFP due – September 8, 2009

Winning bidder selected – September 18, 2009

Contracts negotiated – September 25, 2009

Initiate project work-October 1, 2009

Project duration – 26 weeks

IX: PROPOSAL DESCRIPTION

When submitting a proposal, respondents will be required to provide at least the following information:

- A cover letter;
- An executive summary;
- Qualifications of the management team and all staff contributing to the scope of work including resumes and details on past experiences in the area of expertise;
- Detailed description of your approach to address each of the tasks identified in the Scope of Work. Descriptions should not merely re-state the scope of work, but describe the specific approach, data, and experience the bidder will utilize to successfully and fully address the issue;
- Measures and steps to be deployed to undertake all tasks;
- Project plan, including schedule, milestones for each task and responsible personnel;
- Outreach, including a discussion of how the proposal will approach stakeholder outreach and public informational meetings as laid out in the scope of work;
- Financials and Timeline forms (see separately attached excel spreadsheet budget and project timeline forms, labeled “Budget and Timeline forms: Biomass Sustainability and Carbon Policy Study”)
- Additional information related to proposed evaluation criteria set forth below.

X: EVALUATION CRITERIA

DOER will use the following evaluation criteria to evaluate proposals.

For each criterion, it is expected that sufficient details will be provided regarding both data and methodology.

Evaluation Form ServiceCategory: Research Consulting Services**Bidder:** _____ **Reviewer:** _____

Evaluation Criteria <ul style="list-style-type: none">• Key aspects	Comments - Pro/Con	Rating (0-10)
Tasks – <ul style="list-style-type: none">• Ability of the respondent to respond to and meet the guidelines and conditions set forth in this solicitation		
Qualifications of the Proposed Team <ul style="list-style-type: none">• Qualifications and experience of the respondent and key personnel;• Team expertise diversity;• Record of performance with other clients;• Experience in providing similar services to other clients;• Demonstrated knowledge of the subject area		
Financial Merits <ul style="list-style-type: none">• Reasonableness of rates and billing structure		
<ul style="list-style-type: none">• Prior experience completing similar consulting services, research and analysis;		
<ul style="list-style-type: none">• Evidence of timely completion of the project		
<ul style="list-style-type: none">• Substantive knowledge of biomass resource;		
<ul style="list-style-type: none">• Substantive knowledge of resource assessment;		
<ul style="list-style-type: none">• Substantive knowledge of regional environmental issues associated with biomass development		
<ul style="list-style-type: none">• Substantive knowledge of carbon cycles, forest nutrient cycles, and ecosystem sustainability;		
<ul style="list-style-type: none">• Substantive knowledge of resource economics; and		
<ul style="list-style-type: none">• Evidence of providing unbiased and objective research and peer reviewed science based information ;		
<ul style="list-style-type: none">• Affirmative Market Plan evaluation		
Overall Evaluation :		

XI. SCOPE OF WORK

Biomass Sustainability and Carbon Policy Study

Task 1. U.S. and International Policies with Regard to Forest Management and Biomass Carbon Neutrality

While aspects of ecological, technical, and policy conditions are specific to Massachusetts, the Commonwealth policy for biomass energy should be well informed by other U.S. and international policy positions, as well as the scientific analyses used to establish such policy positions. This Task will form a foundation of the broad policy experience and trends and underlying research findings, on which the subsequent Tasks can be better understood and developed.

The consultant will:

- Complete a literature search on governmental policy positions on the issue of accounting for net effect on atmospheric carbon emissions from biomass energy;
- Seek and summarize policy analyses and positions from the International Energy Agency, the European Union and its member countries, the Kyoto Protocol and other components of the United Nations Framework for Climate Change, the Intergovernmental Panel on Climate Change (IPCC), Canada, any other countries of note, and the U.S. federal government and any relevant individual states;
- Seek literature and interview climate policy experts to address how the complex issues associated with the net carbon balance of biomass energy were considered by policymakers, whether and how consensus was achieved, and any actions taken and outcomes;
- Review other U.S. state energy policies that impact the siting, permitting and development of wood biomass/biofuel energy facilities, especially as to how these policies pertain to forest management and determining the net atmospheric carbon emissions;
- Conduct a literature review of federal forest management policies, guidelines and regulations and summarize pertinent criteria and indicators. Such review should include, but not be limited to, the Montreal Process Criteria, the USDA Forest Service, Northeast Area State and Private Forestry criteria, the Forest Guild's Assessment of Biomass Harvesting Guidelines, and recently completed work on sustainable forest biomass from the federal Environment and Energy Study Initiative (EESI.org). Compile the results in a narrative form for each guideline or regulation indicating at a minimum: the issuing entity; policy, regulation or guideline; areas of concern that the forest management policies, guidelines and regulations sought to overcome; background information and expected outcomes;
- Evaluate the following third party forest certification programs for their rules, policies, regulations, and costs to landowners regarding the sustainable harvesting of biomass – the Sustainable Forestry Initiative (SFI) and the Forest Stewardship Council (FSC).

Task 2. Technical Assessment of the Projected Development of Wood Bioenergy/Biofuels Facilities in Massachusetts.

Woody biomass feedstock can form the basis of energy production from facilities that generate electric power, combined heat and power, thermal energy, wood pellet manufacturing, or cellulosic biofuels. Which types of these facilities, as well as the scale of such facilities, will depend not only on the advances of these technologies, but also on the policy landscape that impacts the economic value and market penetration of these facilities. This Task seeks to broadly explore how policy in Massachusetts currently influences the facilities that may be developed, as well as how other policy frameworks may enable alternative development paths.

- Develop projections of the scale, distribution, and types of wood bioenergy/biofuels facilities that are likely to develop in Massachusetts by 2025, given a continuation of existing incentives and goals in federal and state policy, and estimates of available and sustainable supplies of forest biomass. Amongst these incentives, consider how the incentive of the Massachusetts Renewable Portfolio Standard impacts the projected number and size of biomass facilities likely to be built and the economics of the forest industries.
- Review relevant methodologies for projecting supply and demand of woody biomass from Massachusetts forests and significant differences in results, if any, using these different methodologies. Develop reasonable range of woody biomass supply estimates based not just on forest inventory statistics, but on recoverable supplies as a function of price and projected supply responses from public and private forest ownerships in the state. Review the MA Sustainable Forest Bioenergy Initiative reports by Kelty, D'Amato and Barten (2008) and IRNS (2007) and discuss and contrast the methodology, assumptions and estimates of the forest-derived supply resource assessments provide therein in light of the recently approved state Forest Resource Management Plans and research findings in this Task.
- Develop a small number of alternative scenarios for the development of the wood bioenergy/biofuels industry in Massachusetts, using assumptions based on alternative approaches to renewable energy policy goals and incentives currently under consideration at the federal and state level.
- Provide an evaluation on the cumulative effects of biomass harvesting in Massachusetts forests as a function of these alternative scenarios, and highlight any concerns on the macro forest environment that may not be particularly noteworthy for individual forest cuttings.

Task 3. Sustainable Forest Management and Implications of Biomass Harvesting

The consultant will work with state and federal agencies and research scientists to evaluate the potential effects (including but not limited to, nutrient depletion of forest soils, impacts on ecosystems and biodiversity, economic value of the forest stand, and recreational value) as a direct result of increased harvesting for biomass for thermal, electrical and advanced biofuels in Massachusetts. The contractor must consider conversion efficiency and scale of various biomass utilization scenarios such as stand-alone electrical generation, combined heat and power and small-scale stand-alone thermal applications.

- The increased use of biomass is a multi-state issue. Large Massachusetts based electrical generation projects will likely draw wood from NH, VT, NY and CT. Thus, it would be important for DOER to understand nearby supply/demand issues, along with forest practices and forest management guidelines that bear on wood harvesting for new electrical generation facilities. Due to the scale of proposed wood biomass facilities, increased sawlog harvests may follow. The contractor shall consider regional wood demand and supply to better understand how new biomass electrical generation projects will interface with the current configuration of wood-using mills and how they fit together in the overall forestry outlook. Review and complete a narrative on state forestry regulations, laws, and guidelines for harvesting biomass for the following states: California, Pennsylvania, Michigan, Wisconsin, Minnesota, New Hampshire, New York and Maine. The consultant will conduct interviews with state forestry officials as in the literature search above.
- Review and complete a narrative on the regulatory and other approaches taken by other states with Renewable Portfolio Standards (RPS) to ensure that biomass harvesting does not negatively impact forest sustainability. The consultant shall indicate whether states have enacted guidelines or regulations, how such rules are monitored and enforced, and any areas of concern that the forest management policies, guidelines and regulations sought to overcome. Note; the US Department of Energy makes much of this information available through its program on Energy Efficiency and Renewable Energy see: http://apps1.eere.energy.gov/states/maps/renewable_portfolio_states.cfm.
- Conduct a literature review of scientific research on the effects of nutrient cycling or depletion, biodiversity, timber stand economics, and recreation from northern European countries that have undertaken intensive forest management silvicultural practices in the harvesting of biomass for energy.
- Review the MA Sustainable Forest Bioenergy Initiative report by Kelty, D'Amato and Barten (2008) and conduct a more extensive review of peer-reviewed scientific literature related to biomass harvesting, including issues related to the extent to which whole tree and tree top/branches removal effects soil nutrients, for forests soil and other conditions similar to those found in Massachusetts.

- Review and assess current and proposed Massachusetts policies, guidelines and regulations for timber harvesting with particular emphasis on the potential for increased biomass harvesting and make recommendations based upon findings from literature searches, interviews and conducted research from above. The consultant shall consider landowner objectives and preferences to better understand the potential for increased biomass harvesting. DOER seeks to understand the impact that the additional biomass removal for heat/power/fuel should have on policy. The consultant shall consider project scale when addressing potential impacts.
- Provide an evaluation of current timber harvesting regulations and guidelines in Massachusetts and their adequacy for covering biomass removal on a larger scale than is traditionally done in harvesting operations.
- Provide options for defining forest ecosystem sustainability based upon the above research.

Task 4. Carbon Sequestration of Forests with and without Forest Management

DOER seeks to understand the scientific differences between managed and unmanaged forests to sequester carbon over its full lifecycle. The consultant shall develop a synopsis based upon a peer-reviewed, scientific literature review and consultation with scientific experts and researchers. To do so the consultant will:

- Consult with research scientists currently conducting or who have completed research on the ability of forests to sequester carbon including but not limited to studies done at Hubbard Brook, Harvard Forest and other regional research forests. Synthesize the above information to illustrate (both as carbon stocks and flows) the degree of carbon sequestered above ground such as in the overstory, sub-canopy, shrub layer, and herbaceous layer, litter layer, down woody debris of the Massachusetts forests; and the below ground sequestration in roots, and in organic soils. The consultant shall examine and compare the degree of carbon sequestration over a forest lifecycle achieved from various approaches to forest management and use of harvested products and unmanaged forests.
- The consultant shall examine and compare the effect on net carbon sequestration from the use of a range of forest management methods and intensities (including unmanaged forests) for forest types and soils characteristic of Massachusetts. The analysis should consider the entire forest lifecycle of these approaches to forest management and use of harvested products.
- Specify uncertainties: where are problems in deriving numbers; knowledge gaps, what are the uncertainties due to complexity (unsolvable), and what are the uncertainties due to knowledge gaps (solvable). Provide recommendations for future research.

Task 5. Net Carbon Balance of Forest Biomass Energy

Building on Tasks 3 and 4, the consultant will provide a clear science-based formulation and analysis of the lifecycle net effect on atmospheric carbon balance of using Massachusetts forest biomass for energy production. The analysis will consider the carbon stack emissions of combusting biomass, the carbon absorbed by the forest growth, and emissions associated with biomass harvesting, processing, handling, transportation, and address whether there are any indirect land use impacts and the appropriate account for the displaced carbon emissions from fossil fuel otherwise used for energy. The analysis will consider additional technologies proven to be successful at converting biomass into electricity or fuel. Analysis of the carbon balance of such technologies shall take into account the contributions of stack emissions as well as all gaseous, liquid, and solid by-products of said technologies. Pyrolysis processes for the production of combustible gases, combustible liquids, and biochar will be included in the analysis. The analysis of biochar on carbon sequestration will include the impacts of biochar as source or enabler of soil nutrient density and related increases in biomass production. The analysis will consider the temporal differences of these carbon flows and how they impact climate change. The consultant will consider how the net atmospheric carbon balance of biomass is impacted by forest management practices such as thinning, uneven aged and even aged forestry.

The consultant will address and compare the overall climate change impacts/benefits of the utilization of a given sustainable level of biomass harvesting utilized in a different mix of biomass uses including electric only, combined heat and power, heat only centralized versus distributed systems, and advanced cellulosic biofuels. The consultant shall address scale in conjunction with use when addressing impacts and/or benefits of biomass utilization. The consultant will provide a literature review of science on this issue, highlighting areas of agreement, disagreement, and uncertainty, and the degree to which a scientific consensus has been reached on the issue. The consultant shall identify similar net effect on atmospheric carbon balances for types of electric and thermal energy plants currently in use in the region, such as natural gas, coal, and heating oil. The consultant shall draw upon existing literature to include carbon stack emissions and emissions from harvesting, processing, handling and transportation of fossil fuels.

Task 6. State Agency Discussion and Public Outreach Sessions

The consultant shall undertake one (1) three-hour stakeholder meeting early in the project timeline. This meeting will be to describe the project and to solicit questions and comments. Stakeholders shall consist of representatives of established and recognized regional environmental organizations, regional planning commissions, forest products industry, biomass industry, and Massachusetts agencies such as DOER, DEP, DCR, DAR, EEA, and members of the public. The consultant, in coordination with DOER, will organize a reasonable set of specific questions raised and positions held by stakeholders, and the consultant will address these issues in their research and provide a set of short responses to be included in the report.

Additionally, the consultant will provide three (3) three-hour presentations and discussion sessions on the project findings and report. The first will be after the draft white paper is completed and reserved for Massachusetts state agency officials and a stakeholder advisory group to review the project scope, methods, and results. The final two will be after the final white paper is complete and will be public forums to present the project findings and address questions and comments. Locations within central and western Massachusetts will be chosen by DOER. The consultant will prepare a MS PowerPoint presentation that provides a full summary of the project and results for these sessions, and for DOER to use in other venues.

Appendix A: Affirmative Market Program

Pursuant to *Executive Order 390*, any contract with a potential financial benefit of \$50,000 or more requires a bidder to complete sections of the Affirmative Market Program Form (linked below) that apply and include the required attachments for consideration in the scoring of their submission for any contracting opportunity with the Commonwealth of Massachusetts.

Affirmative Market Program Form

<http://www.mass.gov/Aosd/docs/otherforms/ampplan.doc>

Affirmative Market Program (AMP) Plan

Massachusetts Executive Order 390 established a policy to promote the award of State Contracts in a manner that develops and strengthens Minority and/or Women Business Enterprises (M/WBEs). As a result, M/WBEs are strongly encouraged to submit bid responses to this RFR, either as prime vendors, joint venture partners or subcontractors. All Bidders, regardless of their certification status, are required to submit a completed AMP Plan Form as part of their response for evaluation. It is required that Affirmative Market Program participation accounts for no less than 10% of the total points in the evaluation

DOER **requires** bidders to make a significant commitment to partner with certified Minority- and Women-Owned Businesses in order to be awarded a contract. A SOMWBA-certified Bidder may not list itself as being an Affirmative Market Program Partner to its own company. In addition, a narrative statement can be included to supplement the AMP Plan Form providing further details of the AMP commitments. The submission of this narrative statement does not replace the requirement of the AMP Plan Form. Bidders must submit one form for each M/WBE AMP Relationship. **Please note that no bidder will be awarded a contract unless and until they agree to commit to at least one (1) of following three (3) AMP Components:**

1. **Subcontracting:** If a Bidder commits to Subcontracting in their AMP plan, then they must commit to subcontract a specific dollar amount, or a minimum percentage of dollars earned through an awarded contract, with a SOMWBA-certified company or a company that has applied for certification.

2. **Growth & Development:** If a Bidder commits to Growth and Development in their AMP plan, then they must submit a plan for education, training, mentoring, resource sharing, joint activities, and assistance that would increase industry capacity and the pool of qualified SOMWBA certified companies.
3. **Ancillary Uses of Certified M/WBE Firm(s):** If a Bidder commits to Ancillary Uses of certified M/WBE Firm(s) (or companies that have applied for certification) in their AMP plan, then they must include dollar or percentage expenditure commitments for use of these firm(s). A description of the ancillary uses of certified M/WBEs, if any, must be included on the AMP Plan Form.

Once an AMP Plan is submitted, negotiated and approved, the PMT will then monitor the contractor's performance.

Resources available to assist Prime Bidders in finding potential M/WBE partners can be found at: [http://www.mass.gov/Aosd/docs/mwbe/AMP Resources and Guidance.doc](http://www.mass.gov/Aosd/docs/mwbe/AMP_Resources_and_Guidance.doc)

Appendix B: RFR - REQUIRED SPECIFICATIONS

Issue Date: November 1, 2005

Refresh Date: August 13, 2007

In general, most of the required contractual stipulations are referenced in the *Standard Contract Form and Instructions* and the *Commonwealth Terms and Conditions* (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

The terms of 801 CMR 21.00: *Procurement of Commodities and Services* (and 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*, if applicable) are incorporated by reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00, if applicable). Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All responses must be submitted in accordance with the specific terms of this RFR.

Items with the text, "☞ *Required for POS Only*" specify a requirement for Purchase of Service (POS) human and social services procured under 801 CMR 21.00, *Procurement of Commodities or Services, Including Human and Social Services* and 808 CMR 1.00, *Compliance, Reporting and Auditing for Human and Social Service*.

Affirmative Market Program (AMP). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Affirmative Market Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All bidders must follow the requirements set forth in the AMP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Bidders are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of

this section and encourage bidder's participation of AMP objectives, the Affirmative Market Program (AMP) Plan for large procurements greater than \$50,000 will be evaluated at 10% or more of the total evaluation. Once an AMP Plan is submitted, negotiated and approved, the agency will then monitor the contractor's performance, and use actual expenditures with SOMWBA certified contractors to fulfill their own AMP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size, however, submission of an AMP Plan is mandated only for large procurements over \$50,000.

This RFR will contain some or all of the following components as part of the Affirmative Market Program Plan submitted by bidders:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR,
- Growth and Development activities to increase M/WBE capacity,
- Ancillary use of certified M/WBE firms,
- Past Performance or information of past expenditures with certified M/WBEs and
- Additional incentives for bidders to commit to at least one certified MBE and WBE in the submission of AMP plans.

A Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), M/Non-Profit, or W/Non-Profit, is defined as such by the State Office of Minority and Women Business Assistance (SOMWBA). All certified businesses that are included in the bidder's AMP proposal are required to submit an up to date copy of their SOMWBA certification letter. The purpose for this certification is to participate in the Commonwealth's Affirmative Market Program for public contracting. Minority- and Women-Owned firms that are not currently certified but would like to be considered as an M/WBE for the purpose of this RFR should submit their application at least two weeks prior to the RFR closing date and submit proof of documentation of application for consideration with their bid proposal. For further information on SOMWBA certification, contact their office at 1-617-973-8692 or via the Internet at mass.gov/somwba.

Affirmative Market Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a bidder's Affirmative Market Program (AMP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

Agricultural Products Preference (only applicable if this is a procurement for Agricultural Products) - Chapter 123 of the Acts of 2006 directs the State Purchasing Agent to grant a preference to products of agriculture grown or produced using locally grown products. Such locally grown or produced products shall be purchased unless the price of the goods exceeds the price of products of agriculture from outside the Commonwealth by more than 10%. For purposes of this preference, products of agriculture are defined to include any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products, the raising of livestock, including horses, raising of domesticated animals, bees, fur-bearing animals and any forestry or lumbering operations.

Best Value Selection and Negotiation. The Procurement Management Team (PMT) may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The PMT and a selected bidder, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected bidder's or contractor's response which results in lower costs or a more cost effective or better value than was presented in the selected bidder's or contractor's original response.

Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department or any member of the PMT regarding this RFR except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through Comm-PASS.

Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at www.comm-pass.com. Information contained in this document and in each tab of the Solicitation, including file attachments, and information contained in the related Bidders' Forum(s), are all components of the Solicitation.

Bidders are solely responsible for obtaining all information distributed for this Solicitation via Comm-PASS, by using the free Browse and Search tools offered on each record-related tab on the main navigation bar (Solicitations and Forums). Forums support Bidder submission of written questions associated with a Solicitation and publication of official answers. All records on Comm-PASS are comprised of multiple tabs, or pages. For example, Solicitation records contain Summary, Rules, Issuer(s), Intent or Forms & Terms and Specifications, and Other Information tabs. Each tab contains data and/or file attachments provided by the Procurement Management Team. All are incorporated into the Solicitation.

It is each Bidder's responsibility to check Comm-PASS for:

- Any addenda or modifications to this Solicitation, by monitoring the "Last Change" field on the Solicitation's Summary tab, and
- Any Bidders' Forum records related to this Solicitation (see Locating a Online Bidders' Forum for information on locating these records).

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders who submit a Response based on an out-of-date Solicitation or on information received from a source other than Comm-PASS.

Comm-PASS SmartBid Subscription. Bidders may elect to obtain an optional SmartBid subscription which provides value-added features, including automated email notification associated with postings and modifications to Comm-PASS records. When properly configured and managed, SmartBid provides a subscriber with:

- A secure desktop within Comm-PASS for efficient record management
- A customizable profile reflecting the subscriber's product/service areas of interest
- A customizable listing in the publicly accessible Business Directory, an online "yellow-pages" advertisement
- Full-cycle, automated email alert whenever any record of interest is posted or updated
- Access to Online Response Submission, when allowed by the Issuer, to support:
 - paperless bid drafting and submission to an encrypted lock-box prior to close date
 - electronic signature of OSD forms and terms; agreement to defer wet-ink signature until Contract award, if any
 - withdrawal of submitted bids prior to close date
 - online storage of submitted bids

Every public purchasing entity within the borders of Massachusetts may post records on Comm-PASS at no charge. Comm-PASS has the potential to become the sole site for all public entities in Massachusetts. SmartBid fees are only based on and expended for costs to operate, maintain and develop the Comm-PASS system.

Contract Expansion. If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

Costs. Costs which are not specifically identified in the bidder's response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.

Debriefing. *☞ Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful bidders may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS bidders aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Debriefing/Appeals: Administrative Appeals to Departments. *☞ Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures may be found in the RFR.

Debriefing/Appeals: Administrative Appeals to OSD. *☞ Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the department appeal process and remain aggrieved by the selection decision of the department may appeal the department decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the policies in the OSD Procurement Information Center, subsequent policies and procedures issued by OSD and the specifications of the RFR; or
2. There was a fundamental unfairness in the procurement process. The allegation of unfairness or bias is one that is easier to allege than prove, consequently, the burden of proof rests with the bidder to provide sufficient and specific evidence in support of its claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the State Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above. OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

The decision of the State Purchasing Agent shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the State Purchasing Agent shall not prohibit the department from proceeding with executing contracts.

Electronic Communication/Update of Bidder's/Contractor's Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current the email address of the bidder's contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the PMT, including requests for clarification. The PMT and the Commonwealth assume no responsibility if a prospective bidder's/awarded contractor's designated email address is not current, or if technical problems, including those with the prospective bidder's/awarded contractor's computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the PMT to be lost or rejected by any means including email or spam filtering.

Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. A link to the EFT application can be found on the [OSD Forms](http://www.mass.gov/osd) page (www.mass.gov/osd). Additional information about EFT is available on the [VendorWeb](http://www.mass.gov/osc) site (www.mass.gov/osc). Click on MASSfinance.

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronic Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and all information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the bidder.

Environmental Response Submission Compliance. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all responses submitted should comply with the following guidelines:

- All copies should be printed double sided.
- All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.
- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non re-usable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
- Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.
- Bidders are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, bidders should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

Filing Requirements. *☞ Required for POS Only. Not applicable to non-POS bidders.* Successful bidders must have filed their Uniform Financial Statements and Independent Auditor's Report (UFR), as required for current contractors, with the Operational Services Division via the Internet using the UFR eFiling application for the most recently completed fiscal year before a contract can be executed and services may begin. Other contractor qualification/risk management reporting requirements and non-filing consequences promulgated by secretariats or departments pursuant to 808 CMR 1.04(3) may also apply. In the event immediate services are required by a department, a contract may be executed and services may begin with the approval of OSD and the appropriate secretariat. However, unless authorized by OSD and the appropriate secretariat, the contractor will not be paid for any such services rendered until the UFR has been filed.

HIPAA: Business Associate Contractual Obligations. Bidders are notified that any department meeting the definition of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will include in the RFR and resulting contract sufficient language establishing the successful bidder's contractual obligations, if any, that the department will require in order for the department to comply with HIPAA and the privacy and security regulations promulgated thereunder (45 CFR Parts 160, 162, and 164) (the Privacy and Security Rules). For example, if the department determines that the successful bidder is a business associate performing functions or activities involving protected health information, as such terms are used in the Privacy and Security Rules, then the department will include in the RFR and resulting contract a sufficient description of business associate's contractual obligations regarding the privacy and security of the protected health information, as listed in 45 CFR 164.314 and 164.504 (e), including, but not limited to, the bidder's obligation to: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information (in whatever form it is maintained or used, including verbal communications); provide individuals access to their records; and strictly limit use and disclosure of the protected health information for only those purposes approved by the department. Further, the department reserves the right to add any requirement during the course of the contract that it determines it must include in the contract in order for the department to comply with the Privacy and Security Rules. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Bid Duration. Bidders responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.

Pricing: Federal Government Services Administration (GSA) or Veteran's Administration Supply. The Commonwealth reserves the right to request from the successful bidder(s) initial pricing schedules and periodic updates available under their GSA or other federal pricing contracts. In the absence of proprietary information being part of such contracts, compliance for submission of requested pricing information is expected within 30 days of any request. If the contractor receives a GSA or Veteran's Administration Supply contract at any time during this contract period, it must notify the Commonwealth contract manager.

Pricing: Price Limitation: The bidder must agree that no other state or public entity customer within the United States of similar size and with similar terms and conditions shall receive a lower price for the same commodity and service during the contract period, unless this same lower price is immediately effective for the Commonwealth. If the Commonwealth believes that it is not receiving this lower price as required by this language, the bidder must agree to provide current or historical pricing offered or negotiated with other state or public entities at any time during the contract period in the absence of proprietary information being part of such contracts.

Prompt Payment Discounts (PPD). All bidders responding to this procurement must agree to offer discounts through participation in the Commonwealth Prompt Payment Discount (PPD) initiative for

receiving early and/or on-time payments, unless the bidder can provide compelling proof that it would be unduly burdensome. PPD benefits both contractors and the Commonwealth. Contractors benefit by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Participation in the Electronic Funds Transfer initiative further maximizes the benefits with payments directed to designated accounts, thus eliminating the impact of check clearance policies and traditional mail lead time or delays. The Commonwealth benefits because contractors reduce the cost of products and services through the applied discount. Payments that are processed electronically can be tracked and verified through the Comptroller's Vendor Web system. The PPD form can be found under the Forms and Terms tab of this solicitation.

Bidders must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the PMT. The PMT will review, negotiate or reject the offering as deemed in the best interest of the Commonwealth.

The requirement to use PPD offerings may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Provider Data Management. ☞ *Required for POS Only. Not applicable to non-POS bidders.* The Executive Office of Health and Human Services (EOHHS) has established a Provider Data Management (PDM) business service that is integrated into the Virtual Gateway. PDM is accessible by providers with current POS contracts. Departments may require that bidders with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, bidders are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Bidders are required to include the signed PDM Documentation Summary in their RFR response.

Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A bidder requesting accommodation must submit a written statement which describes the bidder's disability and the requested accommodation to the contact person for the RFR. The PMT reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law.

Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Human and social service subcontractors are also required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.